

## Introduced by Senator Polanco

February 22, 2002

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An act to amend Section 326.5 of the Penal Code, relating to bingo.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1959, as introduced, Polanco. Bingo: audits.

Existing law authorizes a city, county, and city and county to enact an ordinance that authorizes the conduct of bingo games within California under certain circumstances. Existing law requires the profits and proceeds of bingo games to be used by an organization for charitable purposes.

This bill would require a city, county, or city and county to perform a monthly financial audit of an organization if it operates bingo games on 4 or more days per month and if the organization generates more than \$1,000,000 in gross revenue per year. The bill would require a report of the audit to be sent to the Charitable Trust Section of the Department of Justice and to the California Gambling Control Commission.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 326.5 of the Penal Code is amended to  
2 read:  
3 326.5. (a) Neither this chapter nor Chapter 10 (commencing  
4 with Section 330) applies to any bingo game that is conducted in  
5 a city, county, or city and county pursuant to an ordinance enacted  
6 under Section 19 of Article IV of the State Constitution, if the  
7 ordinance allows games to be conducted only by organizations



1 exempted from the payment of the bank and corporation tax by  
2 Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and  
3 23701i of the Revenue and Taxation Code and by mobilehome  
4 park associations and senior citizens organizations; and if the  
5 receipts of those games are used only for charitable purposes.

6 (b) It is a misdemeanor for any person to receive or pay a profit,  
7 wage, or salary from any bingo game authorized by Section 19 of  
8 Article IV of the State Constitution. Security personnel employed  
9 by the organization conducting the bingo game may be paid from  
10 the revenues of bingo games, as provided in subdivisions (j) and  
11 (k).

12 (c) A violation of subdivision (b) ~~shall be~~ is punishable by a  
13 fine not to exceed ten thousand dollars (\$10,000), which fine is  
14 deposited in the general fund of the city, county, or city and county  
15 that enacted the ordinance authorizing the bingo game. A violation  
16 ~~of any provision~~ of this section, other than subdivision (b), is a  
17 misdemeanor.

18 (d) (1) The city, county, or city and county that enacted the  
19 ordinance authorizing the bingo game may bring an action to  
20 enjoin a violation of this section.

21 (2) *A city, county, or city and county shall perform a monthly*  
22 *financial audit of an organization if it operates bingo games on*  
23 *four or more days per month and if the organization generates*  
24 *more than one million dollars (\$1,000,000) in gross revenue per*  
25 *year. A report of the audit shall be sent to the Charitable Trust*  
26 *Section of the Department of Justice and to the California*  
27 *Gambling Control Commission.*

28 (e) No minors ~~shall~~ may be allowed to participate in any bingo  
29 game.

30 (f) An organization authorized to conduct bingo games  
31 pursuant to subdivision (a) shall conduct a bingo game only on  
32 property owned or leased by it, or property whose use is donated  
33 to the organization, and which property is used by that  
34 organization for an office or for performance of the purposes for  
35 which the organization is organized. ~~Nothing in this~~ This  
36 ~~subdivision shall be construed to~~ does not require that the property  
37 owned or leased by, or whose use is donated to, the organization  
38 be used or leased exclusively by, or donated exclusively to, that  
39 organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members ~~shall~~ may not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game ~~shall~~ may operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, ~~shall~~ may hold a financial interest in the conduct of a bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and ~~shall~~ may not be commingled with any other fund or account. Those profits shall be used only for charitable purposes.

(k) With respect to ~~other~~ organizations *not specified in subdivision (j) which are* authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be ~~kept~~ *deposited* in a special fund or account and ~~shall~~ may not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) A portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars (\$2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(3) The proceeds may be used to pay license fees.

(4) A city, county, or city and county that enacts an ordinance permitting bingo games may specify in the ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars (\$5,000), a

1 minimum percentage of the proceeds shall be used only for  
2 charitable purposes not relating to the conducting of bingo games  
3 and that the balance shall be used for prizes, rental of property,  
4 overhead, administrative expenses, and payment of license fees.  
5 The amount of proceeds used for rental of property, overhead, and  
6 administrative expenses is subject to the limitations specified in  
7 paragraph (2).

8 (l) (1) A city, county, or city and county may impose a license  
9 fee on each organization that it authorizes to conduct bingo games.  
10 The fee, whether for the initial license or renewal, ~~shall~~ may not  
11 exceed fifty dollars (\$50) annually, except as provided in  
12 paragraph (2). If an application for a license is denied, one-half of  
13 any license fee paid shall be refunded to the organization.

14 (2) In lieu of the license fee permitted under paragraph (1), a  
15 city, county, or city and county may impose a license fee of fifty  
16 dollars (\$50) paid upon application. If an application for a license  
17 is denied, one-half of the application fee shall be refunded to the  
18 organization. An additional fee for law enforcement and public  
19 safety costs incurred by the city, county, or city and county that are  
20 directly related to bingo activities may be imposed and shall be  
21 collected monthly by the city, county, or city and county issuing  
22 the license; ~~however, the~~. *The amount of the fee shall* may not  
23 exceed the actual costs incurred in providing the service.

24 (m) No person shall be allowed to participate in a bingo game,  
25 unless the person is physically present at the time and place where  
26 the bingo game is being conducted.

27 (n) The total value of prizes awarded during the conduct of any  
28 bingo games ~~shall~~ may not exceed two hundred fifty dollars (\$250)  
29 in cash or kind, or both, for each separate game which is held.

30 (o) As used in this section, “bingo” means a game of chance  
31 in which prizes are awarded on the basis of designated numbers or  
32 symbols on a card that conform to numbers or symbols selected at  
33 random. Notwithstanding Section 330c, as used in this section, the  
34 game of bingo includes cards having numbers or symbols that are  
35 concealed and preprinted in a manner providing for distribution of  
36 prizes. The winning cards shall not be known prior to the game by  
37 any person participating in the playing or operation of the bingo  
38 game. All preprinted cards shall bear the legend, “for sale or use  
39 only in a bingo game authorized under California law and pursuant  
40 to local ordinance.” It is the intention of the Legislature that bingo

1 as defined in this subdivision applies exclusively to this section  
2 and ~~shall~~ *may* not be applied in the construction or enforcement of  
3 any other provision of law.

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